

EXHIBIT 39

CONFIDENTIAL



Transcript of **Gene Steinberg**

Monday, May 9, 2022

*National Coalition on Black Civic Participation, et al.
v. Jacob Wohl, et al.*

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Reference Number: 115545

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF NEW YORK

3 -----
4 NATIONAL COALITION ON BLACK CIVIC PARTICIPATION,
5 MARY WINTER, GENE STEINBERG, NANCY HART, SARAH
6 WOLFF, KAREN SLAVEN, KATE KENNEDY, EDA DANIEL and
ANDREA SFERES,

7 Plaintiffs, Civil Action No.

8 1:20-cv-08668-VM-OTW

9 -and-

10 People of the STATE OF NEW YORK, by its Attorney
11 General, LETITIA JAMES, ATTORNEY GENERAL OF THE
STATE OF NEW YORK

12 -vs-

13 JACOB WOHL, JACK BURKMAN, J.M. BURKMAN & ASSOCIATES,
14 LLC, PROJECT 1599, MESSAGE COMMUNICATIONS, INC.,
ROBERT MAHANIAN and JOHN and JANE DOES 1-10

15 Defendants.
16 -----

17
18 Deposition of GENE STEINBERG, Plaintiff,
19 herein, taken by Defendant, pursuant to Notice via
20 Zoom, on Monday, May 9, 2022, at 10:00 a.m., before
21 Deirdre Smith, a stenographer and notary public
22 within and for the State of New York.
23
24
25

1 A P P E A R A N C E S

2

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1 A P P E A R A N C E S (continued)

2

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17 BY: COLLEEN FERITY, ESQ.

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1 MS. ROEHRS: Objection.

2 A. I'm not sure.

3 Q. How long did you live in that area for?

4 A. Six years, maybe.

5 Q. And you're unable to tell me what the
6 racial demographic was?

7 MS. ROEHRS: Objection.

8 A. Correct.

9 Q. Okay. In or about August 2020 did you
10 have a landline telephone?

11 A. I did not.

12 Q. Did you have a cellphone?

13 A. I did.

14 Q. What was your number at that time? I will
15 not call you.

16 A. At the time?

17 Q. Yes?

18 A. I'm not comfortable providing that phone
19 number.

20 Q. Okay. Is there a reason why you're not
21 comfortable providing your phone number from that
22 time?

23 A. Yes.

24 Q. Okay. What's that reason?

25 A. Since the robocall I've been suffering a

1 lot of emotion, anxiety and stress, and I felt
2 intimidated. I do not want to provide my phone
3 number where potentially I could at once again be
4 harassed.

5 Q. Well, actually -- okay. You know what,
6 that's fine. We'll get back to all those things
7 that you just talked about in a little bit.

8 Are you married?

9 A. No.

10 Q. Do you have any children?

11 A. No.

12 Q. What's your highest level of education?

13 A. I have a bachelors degree.

14 Q. And what is your bachelors in?

15 A. Hellenistic.

16 Q. Can you say that one more time?

17 A. Hellenistic. Hellenistic studies.

18 Q. Where did you get your bachelors?

19 A. GTU United Seminary.

20 Q. Are you currently employed?

21 A. No.

22 Q. When was the last time you were employed?

23 A. January of 2014.

24 Q. And what did you do for a living back in
25 January of 2014?

1 Q. Have you ever been registered to vote?

2 A. Yes.

3 Q. When was the last time you were registered
4 to vote?

5 A. Possibly a few months ago.

6 Q. Is there a particular reason you're no
7 longer registered to vote?

8 A. Yes.

9 Q. And what is that reason?

10 A. When I moved I was given the option to
11 update any address to my new location but given what
12 I've experienced as a result of this robocall, the
13 trauma, everything that followed, as much as I would
14 love to vote and I think it's important to vote, I
15 made the difficult decision the only way for my
16 address not to be public, potentially for this to
17 happen again, the only way was for me to not
18 register to vote. So I requested to be removed from
19 the Board of Elections to be able to vote. And
20 that's why I'm not registered to vote.

21 Q. Your understanding is the only way for
22 your address to not be public is not to be on any
23 voter registration, correct?

24 A. My understanding is voter registration
25 information is public and I can not be regular to

1 vote without my information being public, that's
2 what was explained to me by the Board of Elections.

3 Q. Why do you not want your information to be
4 public?

5 A. Because I don't want someone to once again
6 use my information to intimidate me.

7 Q. Do you have any social media accounts?

8 A. I do.

9 Q. What social media do you use?

10 MS. ROEHRS: Objection.

11 A. Mainly Facebook.

12 Q. Is that profile public or private?

13 A. Depends on what information.

14 Q. What do you mean by that?

15 A. Some things are public and some things are
16 private, so I'm not sure what you're asking.

17 Q. What things where public?

18 A. Location, where I live, which isn't my
19 actual town where I live, is public. I'm trying to
20 think. If I make a post and I set it in public
21 that's public. My name is public but.

22 Q. Are you finished?

23 A. Yeah.

24 Q. So, when you say location where you live
25 is public are you referring to Rockland County?

1 A. Yes.

2 Q. Did you vote in the 2020 presidential
3 election?

4 A. I did.

5 Q. Did you vote in person, by mail or
6 something different?

7 A. In person.

8 Q. Is there any particular reason you voted
9 in person?

10 A. Yes.

11 Q. Why is that?

12 A. Because after receiving the robocall I was
13 concerned that the potentially the mail and the
14 mail-in vote may be tampered with somehow, some way,
15 and I didn't want to risk that so I opted to vote in
16 person.

17 Q. Just, I want to be clear, you've mentioned
18 a few times -- you say, robocall. When you say,
19 robocall, are you referring to August 26, 2020
20 robocall?

21 A. Yes.

22 Q. Okay. We will get back to that shortly.
23 Prior to the November 2020 presidential election had
24 you voted in-person in any other elections before?

25 A. Well, the answer the is yes.

1 A. We did.

2 Q. Okay. What were the nature -- what
3 exactly did you guys discuss about that call?

4 A. Certain everything we discussed, like I
5 said, we lived together but we talked about voting
6 in-person as I mentioned. We talked about the
7 trauma and harm that it caused to me as a result of
8 my prior past -- my criminal conviction, and nature
9 of the call, how it was mentioning law enforcement.
10 Talked about that. We talked about the fact that I
11 wake up, woke up at night with nightmares,
12 screaming, thinking the FBI was coming to get me as
13 a result of this call. We talked about, we talked
14 about a lot of things about it. I'm not sure if
15 you're looking for specifics, spell it out, would be
16 more helpful trying to get you the information to the
17 best of my ability.

18 Q. Only what you remember. And I appreciate
19 you doing your best to do that for me. What,
20 specifically, did you discuss with Ms. Winter about
21 proceeding as a plaintiff in this lawsuit?

22 MS. ROEHRS: Objection. I'm directing the
23 witness not to discuss anything that he
24 discussed with attorneys present.

25 Q. Yes, again, I don't want to know anything

1 about discussions with your attorneys, I just want
2 to know about conversations you had with Ms. Winter
3 outside of the presence of your attorney, if any,
4 what did you discuss about becoming a plaintiff in
5 this lawsuit?

6 A. I recall discussing that her name may be
7 listed as, and case may be known as, Winter, and
8 asked her if she's okay with that. I remember
9 discussing with her whether as much as I felt I
10 should proceed with the, with this case, whether I
11 should actually do it, whether this is good for my
12 mental wellbeing, given how much anxiety and trauma
13 it has already caused me without being part and
14 being part of this may make me relive both my past
15 with law enforcement and the robocall and what
16 transpired afterward emotionally, so I discussed
17 that as well.

18 Q. Anything else?

19 A. I don't recall.

20 Q. Okay. And why did you ultimately decide
21 to move forward as a plaintiff?

22 MS. ROEHRS: Objection.

23 A. Because I've been suffering and I've been
24 traumatized. I feel intimidated and I feel that,
25 from my perspective, that I want to make sure that,

1 A. Because my partner was playing a message
2 that she thought I should hear so I listened to it.

3 Q. Okay. Do you recall the substance of the
4 message?

5 A. Yes.

6 Q. To the best of your recollection what did
7 the robocall say?

8 A. It said that this is, I don't remember the
9 full name but Tamika-something, and the substance
10 that I recall was that if -- something about if you
11 vote by mail then law enforcement can use your
12 information for outstanding warrants and that
13 creditors may come after you for your debts and last
14 was that the CDC may force you to take vaccines.

15 Q. Anything else that you recall?

16 A. Yeah, at the end it said beware of vote by
17 mail --

18 Q. You have a pretty good memory.

19 A. -- stay safe. Making me think that
20 voting, voting may not be safe.

21 Q. As you sit here today how many times have
22 you listened to the robocall?

23 A. I don't know that I listened to it again
24 since that day.

25 Q. Have you read the transcript?

1 Q. You testified that the robocall was
2 traumatic for you, receiving the robocall; is that
3 correct?

4 A. Yes.

5 Q. Which parts of the robocall in particular
6 caused trauma?

7 A. The part that law enforcement may come
8 after you. Involving law enforcement, connecting it
9 to mail-in voting.

10 Q. Why did this cause trauma for you?

11 A. Because it brought up my interactions with
12 law enforcement and the voting by mail, feeling as a
13 threat.

14 Q. On the date you received the call, or you
15 listened to the call, did you have any outstanding
16 warrants?

17 A. No.

18 Q. Did you believe at the time you heard the
19 robocall that the contents were true and accurate?

20 A. No.

21 Q. So, why did it cause you trauma if you
22 knew, if you believed it wasn't true and accurate?

23 MS. ROEHRS: Objection.

24 A. I'm not a psychologist. I'm not a brain
25 specialist. And I can't explain why part of my

1 MR. KLEINMAN: Tell me when you're
2 finished.

3 (Witness peruses document.)

4 THE WITNESS: I've read it.

5 MR. KLEINMAN: Okay.

6 Q. Do you recognize the content of paragraph
7 51?

8 A. Yes.

9 Q. And what do you recognize that to be?

10 A. This looks like the transcript of the
11 robocall that I listened to.

12 Q. Okay. Can you please direct me to the
13 first statement in this robocall that you are
14 alleging caused you trauma?

15 A. Where it says mail-in voting sounds great
16 but did you know if you vote by mail your personal
17 information will be part of a public database that
18 will be used by police departments to track down old
19 warrants.

20 Q. Okay. Let's stop there. So, what
21 specifically about this statement caused you trauma?

22 A. Bringing up that voting, using mail-in
23 voting, could cause the, cause law enforcement to
24 come after me.

25 Q. But it's fair to say that you had no

1 it was anxiety and stress at the time.

2 Q. Did you contract Covid in or around
3 November of 2020?

4 MS. ROEHRS: Objection.

5 A. Not to my knowledge.

6 Q. In August of 2020 how often did you leave
7 your home?

8 A. I wouldn't know the answer to that but if
9 I left home it wasn't to meet up with anyone.

10 Q. For what reasons did you leave home in
11 August of 2020?

12 A. I like to go hiking. Walk my dogs. Well,
13 I said I didn't meet people, I just want to clarify,
14 there were three people that we met regularly
15 because it was a pod. They didn't meet anyone and
16 we didn't meet anyone and if they did end up meeting
17 anyone they would let you know and wait two weeks
18 before we met up again.

19 Q. This group that you're talking about, how
20 many people were in this group?

21 A. Three or four.

22 Q. Three including yourself?

23 A. No, three, myself and Mary.

24 Q. So, five people?

25 A. Yeah.

1 Q. How often did you meet with these other
2 three individuals?

3 A. Hard to say. We were literally -- I can't
4 say with certainty but I would say four days or
5 nights out of the week is a pretty accurate answer
6 but I don't know exactly.

7 Q. Approximately, when did you start meeting
8 with these other individuals four or five nights a
9 week?

10 A. Four, five nights is an average throughout
11 the entire time. I don't recall but it was fairly
12 early on when we realized that we should not be
13 meeting people so we tried to come up with a plan so
14 we could still hang out. So, as information became
15 available, I would say fairly early on in the
16 epidemic, we were trying to use the best information
17 we had and decided that we should be a pod only on
18 the condition that no one meets anyone else.

19 Q. Understood. Approximately, how many times
20 in August of 2020 did you meet with these three
21 other people in this group?

22 A. I'm not sure. Like I said, best estimate
23 is three or four times a week but I can't give you
24 an accurate answer.

25 Q. Sure. Approximations are fine. So, is it

1 MS. ROEHRS: Let's do ten.

2 MR. KLEINMAN: Got it.

3 (Off the record.)

4 MR. KLEINMAN: Ready?

5 MS. ROEHRS: We just want to correct one
6 of his answers.

7 THE WITNESS: I don't recall the exact
8 question when you asked whether I was ever
9 under oath in Court and it occurred to me that
10 I believe when I entered my plea, I'm assuming,
11 I was under oath, which I wanted to correct
12 that in case I said no.

13 MR. KLEINMAN: I appreciate the
14 clarification. I believe you said you weren't
15 sure but the clarification is always helpful
16 and I appreciate that.

17 Q. So, in the months between August of 2020
18 and March of 2021, approximately, how many times per
19 day did you leave your home?

20 MS. ROEHRS: Objection.

21 A. I don't recall.

22 Q. Is it more than once?

23 A. I don't recall.

24 Q. Okay. Between August of 2020 and March of
25 '21, how often would you go grocery shopping?

1 A. Zero.

2 Q. How did you get your groceries at the
3 time?

4 A. An online app.

5 Q. Between August 2020 and March of '21,
6 roughly, how many times per week would you leave
7 your home?

8 A. The short answer is I don't know.

9 Q. Okay. Now, you testified earlier that
10 after receiving the robocall you started to
11 experience nightmares. Is that correct?

12 A. Correct.

13 Q. What specifically about the robocall
14 caused these nightmares in your estimation?

15 MS. ROEHRS: Objection.

16 A. As I said I'm not a psychologist or a
17 brain specialist but this robocall brought up this
18 fear and this trauma of the FBI coming for me. And
19 I'm not sure that it started on day one, it took
20 time to set in, but again, as I mentioned the law
21 enforcement coming after you with mail-in voting is
22 what, to my understanding, that's what caused me to
23 have nightmares. While I was dreaming in my sleep
24 she would ask me, what's going on? I would tell her
25 the FBI is here to get me.

1 MS. ROEHRS: Do you need a break?

2 THE WITNESS: No, I can cry on camera.

3 MR. KLEINMAN: If you need a break I'll be
4 happy to give it to you.

5 THE WITNESS: No, I'm okay.

6 Q. So, you said your understanding is the
7 robocall caused these nightmares. What do you base
8 this understanding on?

9 A. My thinking is that I had this fear when I
10 was awake, I did not have it before that robocall.
11 I started having it afterwards. Only that I didn't
12 tell anyone that I'm was part of the lawsuit, would
13 only mention it vaguely to someone about the lawsuit
14 and if they asked what it's about, I would say, oh,
15 it doesn't matter. I couldn't talk about it because
16 I didn't want them to ask for details as to why,
17 which then I would had to explain to them the trauma
18 I'm dealing with, which is why I'm part of this
19 lawsuit. I guess I'm not an expert but I very much
20 associate it based on the timing and how it made me
21 feel and how it continues to make me feel.

22 Q. When did this fear begin?

23 A. Fear specifically of? Explain, please,
24 the question?

25 Q. Well, you just testified that you felt

1 fear after the robocall. So, when after receiving
2 the robocall did this fear first begin for you?

3 A. Like I said, it wasn't on day one. I
4 mean, the anxiety, the trauma was coming up, that it
5 brought up was soon after but when I started having
6 nightmares and when -- that I can't answer, because
7 I don't recall exactly.

8 Q. And I just want to make sure that it's
9 clear, do you recall when the nightmares began after
10 receiving the robocall?

11 A. I don't recall a date. I don't remember
12 how many days but if I had to speculate -- maybe I
13 shouldn't be speculating. But it was soon after.
14 And soon after would be a month, two weeks but I
15 don't specifically recall.

16 Q. I want to narrow it down as best you can.
17 Would you say, approximately, more or less than a
18 month after you received the robocall that the
19 nightmares began?

20 MS. ROEHRS: Objection.

21 A. If you want me to approximate I have to
22 continue to say I'm not sure.

23 Q. I want you to approximate not guess. So,
24 an approximation?

25 A. Then I can't answer that.

1 Q. So, is it fair to say that you don't know
2 if it's one month, two months --

3 A. It's difficult --

4 MS. ROEHRS: Objection.

5 A. -- it's difficult for me to tell you that.

6 Q. Okay.

7 A. It's not -- it was not on day one.

8 Q. Have your nightmares stopped?

9 A. I have not had them, I would say, for the
10 past two months. I have cried about it during the
11 day when I had to schedule time for this deposition
12 or when I have to do anything related to this case
13 during the day it literally ruins my day. I mean by
14 me not being able to focus on what I normally want
15 to focus on because this is on my mind and this is
16 super stressful and it makes me feel anxious.

17 Q. And aside from the therapist you mentioned
18 earlier have you, did you seek any other type of
19 mental health counseling as a result of these
20 feelings?

21 MS. ROEHRS: Objection.

22 A. No.

23 Q. In the approximately twenty years since
24 your criminal conviction have you seen or heard
25 anything besides the robocall that gave you

1 the robocall, this was directed at the listener,
2 don't do this because -- don't vote by mail because
3 of the three things I mentioned earlier will happen
4 to you. So that was more of, felt to me like a
5 threat.

6 Q. Do you watch the news?

7 A. News? Not really.

8 Q. In August of 2020 did you watch the news
9 at all?

10 A. No.

11 Q. In August of 2020 --

12 MR. KLEINMAN: Withdrawn.

13 Q. In the months leading up to 2020
14 presidential election did you see or hear any type
15 of political adds?

16 A. May have come on when I watched sports but
17 I try not to pay any attention. I try to avoid adds
18 all together.

19 Q. Now, you testified that you found the call
20 to be intimidating. Is that correct?

21 A. Yes.

22 Q. So, what specifically about the call did
23 you feel to be intimidating?

24 MS. ROEHRS: Objection.

25 A. The fact it made me question whether my

1 vote by mail would be safe to the point that I
2 changed plans from voting by mail to actually voting
3 in the presidential election in-person, exposing
4 myself potentially to Covid when I had been so
5 careful the entire time to not be meeting people.

6 The fact that it made me feel, like I
7 said, that law enforcement might come after me,
8 despite the fact that I know it's not real, the
9 robocall -- my brain still produced trauma that it
10 might be real and gave me nightmares and intimidated
11 me to the point that I removed myself from voter
12 registration -- that since the I was eighteen I
13 don't think I've missed a vote -- to the point that
14 I removed my information from voter registration
15 because I don't want it to be public.

16 Q. Do you believe the robocall was designed
17 for any particular voters?

18 MS. ROEHRS: Objection.

19 A. I'm not sure.

20 Q. At the time you received the robocall did
21 you recognize the name Tamika Taylor?

22 A. I can't recall exactly but I knew Brianna
23 Taylor, I don't know a Tamika, so I don't know if I
24 associated it with her or not. I don't recall.

25 Q. Earlier you testified that you lost some

1 various things to help the party, but I don't
2 necessarily recall exactly what.

3 Q. Have you ever spoken to Mr. Burkman at
4 all?

5 A. I don't think so.

6 Q. You said, I don't think so?

7 A. No, not certain if it was a prank call,
8 that's why I'm saying I don't know.

9 Q. Sorry, I wasn't sure if I actually heard
10 what you had said. That was all. What's your
11 opinion of Mr. Burkman?

12 MS. ROEHRS: Objection.

13 A. I'm not sure who he is as a person but my
14 opinion is that his actions caused me a lot of
15 trauma and anxiety and I would hope that he would
16 not do this again because no one deserves to suffer.

17 Q. Do you plan on seeking any additional
18 mental health treatment as a result of the trauma
19 that you claim you suffered as a result of the
20 robocall?

21 MS. ROEHRS: Objection.

22 A. I don't know at the moment.

23 Q. Why not?

24 A. Because it's difficult for me to ask for a
25 professional help because that means that I have to

1 talk about it. I can't ask for help without
2 specifying what I need help for so that means that I
3 have to relive that again.

4 MR. KLEINMAN: We don't have too much
5 longer. I'm doing my best to get through this
6 as quickly as I can but if you need a break,
7 Mr. Steinberg, I'll be happy to give you
8 another break.

9 THE WITNESS: I'll be fine.

10 MR. KLEINMAN: Let's go off the record for
11 a second.

12 (Off the record.)

13 MR. KLEINMAN: Back on.

14 Q. Prior to receiving the, prior to hearing
15 the robocall did you know who Jacob Wohl was?

16 A. No.

17 Q. Do you currently know who he is?

18 A. To the same extent I know about the other
19 party.

20 Q. Is it fair to say that you've never spoken
21 to Mr. Wohl?

22 A. Right.

23 Q. Is it fair to say that your opinion of Mr.
24 Wohl is the same as it is for Mr. Burkman?

25 A. Correct.

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C E R T I F I C A T I O N

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THIS IS TO CERTIFY, THAT I, DEIRDRE M. SMITH,
on Monday, May 9th of 2022, reported the proceedings
contained in the foregoing 71 pages at the time and
place as set forth in the heading in the foregoing
matter. That the transcript is a true and accurate
transcription of my stenographic notes, using
Computer Aided Transcription, to the best of my
ability.

12

13

IN WITNESS WHEREOF, I have hereunto set my had
this 23rd day of May, 2022.

14

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16



17

Deirdre M. Smith

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